

**BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A MEMBER
OF THE STATE BAR OF ARIZONA,

) No. 02-1867

STUART J. REILLY,
Bar No. 005275

) DISCIPLINARY COMMISSION
) REPORT

RESPONDENT.

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on December 13, 2003, pursuant to Rule 56(a), Ariz. R. S. Ct., for consideration of the Tender of Admissions and Agreement for Discipline by Consent (Agreement) and Joint Memorandum in Support of Agreement for Discipline by Consent (Joint Memorandum) filed November 10, 2003 providing for a censure, two years of probation commencing February 24, 2004, with the State Bar's Law Office Management Assistance Program (LOMAP) and Member Assistance Program (MAP), and costs of these disciplinary proceedings. Respondent and counsel for the State Bar were present.

Decision

The seven¹ members of the Commission unanimously recommend accepting and incorporating by reference the Agreement and Joint Memorandum providing for a censure, two years of probation (LOMAP and MAP) commencing February 24, 2004, and costs.

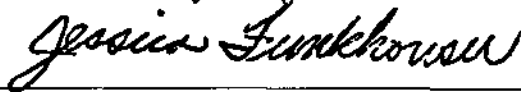
Relying on *Matter of Levine*, 174 Ariz. 146, 847 P.2d 1093 (1993) in support of

¹ Commissioner Nelson recused. Commissioner Gutierrez did not participate in these proceedings. Gary Bonwell, M.D., a former commissioner from Tucson, participated as an ad hoc member. One public member seat remains vacant.

Respondent's efforts to repay the outstanding judgment assessed in the *Carondelet* matter, the parties state that mitigating factor 9.32(d) (timely good faith effort to make restitution or to rectify consequences of misconduct) is present in this case. Joint Memorandum, p. 5. *Levine* held that the imposition of other sanctions and fees by the court, to the extent they have been paid or will be paid in the future should be considered in mitigation. *Id* at 174. The Commission, however, determined that mitigating factor 9.32(k) (imposition of other penalties or sanctions) was more applicable to the instant matter. This difference in mitigating factors would not change the agreed upon sanction.

In further support of his interim rehabilitation, Respondent provided evidence as to his ongoing treatment and compliance with MAP since a sanction was imposed in File No. SB-01-0190-D (2002). See report from therapist Jennifer M. Foran, M.D. dated December 12, 2003. The Commission, therefore, believes there is sufficient support for acceptance of the Agreement for Discipline by Consent.

RESPECTFULLY SUBMITTED this 6th day of January 2004.



Jessica G. Funkhouser, Chair
Disciplinary Commission

Original filed with the Disciplinary Clerk
this 6th day of January 2004.

Copy of the foregoing mailed
this 6th day of January 2004 to:

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1 Stuart J. Reilly
2 Respondent
3 P.O. Box 80410
4 Phoenix, AZ 85060-0410

5 Copy of the foregoing hand-delivered
6 this 6th day of January 2004 to:

7 Christine M. Powell
8 Bar Counsel
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10 111 West Monroe, Suite 1800
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12 By K. Weigand
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